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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,157	12/26/2001	Tomasz A. Matraszek	83837RLO	3986

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EXAMINER

CUNNINGHAM, GREGORY F

ART UNIT	PAPER NUMBER
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2676

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/036,157

Applicant(s)

MATRASZEK ET AL.

Examiner

Gregory F. Cunningham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/4/20005 and 7/5/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to amendment filed 7/05/2005 and 9/06/2005.
2. The disposition of the claims is as follows: claims 1-28 are pending in the application.

Claims 1 and 13 are independent claims. Claims 27 and 28 are newly added.

Claim Rejections - 35 USC § 112

3. In view of the amended claims 112 rejections are withdrawn.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5-8, 13 and 25 are rejected under 35 U.S.C. 102(b) as being disclosed by GQ Cover Story 1999, hereinafter GQ.

A. Claim 1, “An image file for storing a digital image [1999 photo cover of GQ magazine and Internet image of 1999 photo cover of GQ magazine] and information related to the digital image [descriptive text embedded in image], including:

a) digital image data [at least the Internet digital image of 1999 GQ magazine of Russell Crowe corresponds to digital image data];

b) a user identifier [GQ corresponds to user identifier]; and

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c) affective information which relates to the feelings or emotions of the user identified by the user identifier toward the digital image stored in the image file [‘We’re not kidding’ corresponds to the effective seriousness of GQ], wherein the effective information includes a value which is a importance rating [‘The Next Brando’ corresponds to the relative importance of the character Russell Crowe compared to that of Brando]” is disclosed, supra, [as detailed].

B. Claim 13, “An image file for storing only one particular digital image [1999 photo cover of GQ magazine and Internet image of 1999 photo cover of GQ magazine of Russell Crowe] and information related to the particular digital image [descriptive text embedded in image and html text related to digital image], including:

a) digital image data corresponding to the particular digital image to be displayed [at least the Internet digital image of 1999 GQ magazine of Russell Crowe corresponds to digital image data]; and

b) metadata separate from the digital image data that is usable to retrieve the particular image which includes a user identifier [Title at top of page ‘GQ Cover Story’, wherein ‘GQ’ corresponds to user identifier] and affective information which relates to the feelings or emotions of the user toward the particular digital image [‘Russell Crowe burns with a Brando-like intensity and sexuality’ corresponds to the feelings of GQ], wherein the effective information includes a value which is a importance rating [‘Brando-like’ corresponds to the relative importance of the character Russell Crowe compared to that of Brando]” is disclosed, supra, [as detailed].

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C. Claim 2, “The image file of claim 1 wherein the affective information further specifies the time or period within a range of times that the affective information was produced” is disclosed supra for claim 1 [GQ March 1999].

D. Claim 3, “The image file of claim 1 wherein the affective information identifies the importance of the image” is disclosed supra for claim 1, wherein ‘The Next Brando’ corresponds to the relative importance of the character Russell Crowe compared to that of Brando]

E. Claim 5, “The image file of claim 1 wherein the image data is a JPEG compressed image data” is disclosed supra for claims 1 [see source file, page 2, SRC=”images/rctriviagq.jpeg”].

F. Claim 6, “The image file of claim 1 wherein the digital image file includes affective information and user identifies for a plurality of users” is disclosed supra for claim 1, wherein ‘GQ’ corresponds to a plurality of users.

G. Claim 7, “A method for providing a retrieval scheme for stored digital images [], using the image file of claim 6, comprising the steps of:

a) a retrieval user providing a user identifier [GQ];

b) using the user identifier provided by the retrieval user to select, from the plurality of affective information [intensity and sexuality], the particular affective information associated with the retrieval user [GQ, Russell Crowe]; and

c) using the affective information to facilitate image retrieval [retrieved using ‘All the Web search tool’ – see www.alltheweb.com (specify advance search)]” is disclosed supra for claim 6 and as [detailed].

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H. Claim 8, “The method of claim 7 wherein the affective information identifies the importance of the image to a plurality of users [GQ, Russell Crowe burns with a Brando-like intensity and sexuality]” is disclosed supra for claim 7 and as [detailed].

J. Per dependent claims 14, 15 and 17-20, these are directed to an image file for performing the image file of dependent claims 2, 3 and 5-8, and therefore are rejected to dependent claims 2, 3 and 5-8.

H. Claim 25, “The image file of claim 13 wherein the affective information is stored as personal tag data” is disclosed supra for claim 1. Wherein [GQ – Russell Crowe] corresponds to a “personal tag data”.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4, 16 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over GQ as applied to claims 1 and 13 above, and in view of Real World Photoshop 3, hereinafter Photoshop.

A. Claim 4, “The image file of claim 1 wherein the image file further includes information related to the capture device used to capture the digital image” is disclosed supra for claim 1.

However, GQ does not appear to disclose, “wherein the image file further includes information related to the capture device used to capture the digital image”, but

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Photoshop does in 'all sorts of information about the image and where it came from' wherein 'where it came from' corresponds to "includes information related to the capture device used to capture the digital image". [See also Photoshop, p. 543, para. 2-5 beginning at Caption.]

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply image file disclosed by GQ in combination with information related to the capture device used to capture disclosed by Photoshop, and motivated to combine the teachings because it would identify reproducible results well known in the field of photography.

B. Per dependent claim 16, this is directed to a image file for the image file of dependent claim 4, and therefore is rejected to dependent claim 4.

C. Claim 26, "The image file of claim 25 wherein the personal affective tag is a numerical value" is disclosed by GQ and Photoshop supra for claim 25, [see Photoshop, p. 504, Fig. 17-14 TIFF Name: RTH#49.tif].

8. Claims 9, 12, 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over GQ as applied to claims 1 and 13 above, and in view of Ano (US 2002/0030665), hereinafter Ano.

A. Claim 9, "The method of claim 7 wherein the affective information is used to determine the order of presentation of retrieved images" is disclosed supra for claim 7 and as [detailed].

However, GQ does not appear to disclose, "wherein the affective information is used to determine the order of presentation of retrieved images", but Ano does at 'Mother's Day' and at [Ano – 'The selection is made, for example, when printing the most favorite image from among

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the images captured by a digital camera, or when transmitting a selected image by attaching it to a mail message’].

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply image file disclosed by GQ in combination with selection order disclosed by Ano, and motivated to combine the teachings because it would provide for easy printing.

B. Claim 12, “The image file of claim 1 wherein the affective information is provided by a user interface which enables the user to indicate important images” is disclosed supra for claim 1 and [as detailed].

However, GQ does not appear to disclose, “wherein the affective information is provided by a user interface which enables the user to indicate important images”, but Ano does at [Ano - most favorite] and [Ano, para 0112 – Though a mouse and a cursor may be used to select a suitable image, in the second embodiment the image is selected using the wheel 8. This method will be described below. Further, for convenience of explanation, it is assumed in the second embodiment that only one image is selected at a time, and that the image selected from among the 16 thumbnail images is highlighted on the screen. The highlighting is accomplished, for example, by encircling the selected image with a red frame (pointer) 46 as earlier described] and [Ano - most favorite image from among the images captured by a digital camera]

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply image file disclosed by GQ in combination with highlight important images disclosed by Ano, and motivated to combine the teachings because it would provide for easy viewing.

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C. Per dependent claims 21 and 24, these are directed to an image file for performing the image file of dependent claims 9 and 12, and therefore are rejected to dependent claims 4, 9 and 12.

9. Claims 10 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over GQ as applied to claim 1 above, and further in view of Pierce et al., (US Patent Number 6,327,580), hereafter Pierce.

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Photoshop and Ano as applied to claim 1 above, and further in view of Oda et al., (US Patent Number US 6,088,040 A), hereafter Oda.

A. Claim 10, “The image file of claim 1 wherein the affective information is provided by monitoring the facial expression of the user” is disclosed by Photoshop and Ano supra for claim 1. However Photoshop and Ano do not appear to disclose, “wherein the affective information is provided by monitoring the facial expression of the user”, but Oda does in col. 4, ln. 42 – col. 5, ln. 7.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply affective information, image data and user identifier disclosed by Photoshop and Ano in combination with facial image information disclosed by Oda, and motivated to combine the teachings because it would [carry out analysis and composition of a facial expression of a person in information transmission such as a teleconferencing system and the like] as revealed by Oda in col. 1, lines 19-21.

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B. Per dependent claim 22, this is directed to an image file for performing the image file of dependent claim 10, and therefore is rejected to dependent claim 10.

11. Claims 11 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over GQ as applied to claim 1 above, and further in view of Abbott et al., (PGPUB-DOCUMENT-NUMBER: 20020054174), hereafter Abbott.

A. Claim 11, “The image file of claim 1 wherein the affective information is provided by monitoring the physiology of the user” is disclosed by Photoshop and Ano supra for claim 1. However Photoshop and Ano do not appear to disclose, “wherein the affective information is provided by monitoring the physiology of the user”, but Abbott does in [para. 0130 and 0133].

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply affective information, image data and user identifier disclosed by Photoshop and Ano in combination with physiology data disclosed by Abbott, and motivated to combine the teachings because it would provide [attributes] as revealed by Abbott in [para. 0130].

B. Per dependent claim 23, this is directed to an image file for performing the image file of dependent claim 11, and therefore is rejected to dependent claim 11.

12. Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over GQ as applied to claim 1 above, and further in view of Miss International 1960, hereinafter Miss International.

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A. Claim 27, "The image file of claim 1 wherein the importance rating value is one number selected from a range of possible numbers" is disclosed by GQ supra for claim 1.

However GQ does not appear to disclose "wherein the importance rating value is one number selected from a range of possible numbers", Miss International does photo of 'Top 5 Miss International 1960.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply affective information, image data and user identifier disclosed by GQ in combination with numerical importance rating disclosed by Miss International, and motivated to combine the teachings because it would provide show the 5 most beautiful women in the universe, as indicted in photo caption [see page 4].

B. Per dependent claim 28, this is directed to an image file for performing the image file of dependent claim 27, and therefore is rejected to dependent claim 27.

Response to Arguments

13. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

Responses

14. Responses to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231.

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Inquiries

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory F. Cunningham whose telephone number is (571) 272-7784.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on (571) 272-7778. The Central FAX Number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gregory F. Cunningham
Examiner
Art Unit 2676

gfc

9/26/2005



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